

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Kenneth Muller and Martha Teich,

Civil No. 11-1815 (PJS/JJG)

Plaintiffs,

v.

Darwin G. Boutiette, Iqubal Sajady,  
Teon J. Summers, Black Bull, Inc.,  
James W. Davis, Barry Williams,  
Colleen Williams, Pieter J. Grobbelaar,  
Blueleaf Atlantic Enterprises, LLC,  
Chris Rusch, JDS Group Holdings, LLC,  
Venture Business Group, Inc., Twila Trent,  
John Doe, Mary Rowe, and XYZ Corp.,

Defendants.

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**REPORT AND  
RECOMMENDATION**

JEANNE J. GRAHAM, United States Magistrate Judge

Plaintiff initiated this matter by filing the Complaint on July 7, 2011. No proof of service has been filed, nor has the Summons been returned executed as to any of the defendants.

On August 26, 2011, defendants Darwin G. Boutiette and Iqubal Sajady filed a Motion to Dismiss Pursuant to F.R.C.P. Rul 12(b)(6) and F.R.C.P. Rule 9(B) (Doc. Nos. 2 and 5). Before the hearing on the motion, Plaintiffs and defendants Boutiette and Sajady filed a Joint Stipulation of Dismissal (Doc. No. 9) on November 14, 2011. On November 15, 2011, Judge Patrick J. Schiltz issued an Order of Partial Dismissal (Doc.

No. 10), dismissing defendants Boutiette and Sajady without prejudice.

On November 16, 2011, the undersigned issued an Order (Doc. No. 11), requiring plaintiffs to file proof of service of the Complaint on each of the remaining defendants, to notify defendants of their obligation to answer or otherwise plead within ten (10) days, and, if no answer or other pleading is filed, to file an application for entry of default or a motion for default within twenty (20) days. The order also gave Plaintiffs the opportunity to advise the Court in writing of any good cause to the contrary and informed Plaintiffs that failure to comply with the Order may result in dismissal of the action for failure to prosecute.

Now, more than thirty (30) days after that Order was issued, no proof of service has been filed, no answer, pleading or notice of appearance has been filed on behalf of any remaining defendant, and Plaintiffs have not filed any application for entry of default or motion for default. There has been no communication from the Plaintiffs about this matter.

## **RECOMMENDATION**

Therefore, based upon the foregoing and all of the files, records and proceedings herein,

**IT IS HEREBY RECOMMENDED** that this action be summarily **DISMISSED** without prejudice.

Dated: December 22, 2011

s/ Jeanne J. Graham  
JEANNE J. GRAHAM  
United States Magistrate Judge

## NOTICE

Pursuant to District of Minnesota Local Rule 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by **January 6, 2012**. A party may respond to the objections within fourteen days after service thereof. Any objections or responses shall not exceed 3,500 words. The district judge will make a de novo determination of those portions of the Report and Recommendation to which objection is made.